

**IN THE UNITED STATES BANKRUPTCY COURT FOR  
THE NORTHERN DISTRICT OF MISSISSIPPI**

**IN THE MATTER OF:**

**CHAPTER 13 CASE NO:**

**KATTIE MARIE PRESTON**

**18-13990-JDW**

**NOTICE OF TRUSTEE'S MOTION TO DISMISS**

Should any party receiving this notice respond or object to said motion, such response is required to be filed on or before March 4, 2019, with the Clerk of this Court using the CM/ECF system or at the following address:

Shallanda J. Clay, Clerk of Court  
U. S. Bankruptcy Court  
Northern District of Mississippi  
703 Highway 145 North  
Aberdeen, MS 39730

A copy of such response must be served on the undersigned Chapter 13 Trustee. If no responses are filed, the Court may consider said motion immediately after the time for responses has expired. In the event a written response is filed, the Court will notify you of the date, time and place of the hearing thereon.

**CERTIFICATE**

I, the undersigned Attorney for Trustee, do hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and I hereby certify that I either mailed by United States Postal Service, first class, postage prepaid, or electronically notified through the CM/ECF system, a copy of the above and foregoing to all affected creditors and their attorney if known.

Dated: February 7, 2019

LOCKE D. BARKLEY, TRUSTEE

/s/ Melanie T. Vardaman  
ATTORNEYS FOR TRUSTEE  
W. Jeffrey Collier (MSB 10645)  
Melanie T. Vardaman (MSB 100392)  
6360 I-55 North, Suite 140  
Jackson, Miss. 39211  
(601) 355-6661  
[ssmith@barkley13.com](mailto:ssmith@barkley13.com)

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**KATTIE MARIE PRESTON**

**18-13990-JDW**

**TRUSTEE'S MOTION TO DISMISS**

COMES NOW Locke D. Barkley, Chapter 13 Trustee (the "Trustee") by and through counsel, and files this Motion to Dismiss (the "Motion") and in support thereof states as follows:

1. On October 12, 2018, the Debtor initiated this proceeding with the filing of a Chapter 13 bankruptcy petition. The Debtor filed her proposed First Amended Chapter 13 Plan on December 17, 2018 (Dkt. #12) (the "Plan"). The Section 341(a) Meeting of Creditors was originally scheduled for November 13, 2018 (Dkt. #6), but was reset to December 17, 2018, by Agreed Order Rescheduling § 341 Meeting of Creditors, Extending Deadline for Objection to Confirmation and Resetting Confirmation Hearing (Dkt. #9). Except as stated below, this case would otherwise be ready for confirmation.

2. The Debtor has failed to fully fund the Plan and is \$933.00 delinquent in plan payments through January 2019. Plan payments continue to accrue at the rate of \$874.00 monthly thereafter. The failure by the Debtor to fund the Plan demonstrates that the Plan is not feasible and, therefore, cannot be confirmed.

3. The Trustee requests that this bankruptcy case be dismissed.

WHEREFORE, PREMISES CONSIDERED, the Trustee prays that upon notice and hearing that this Court enter its order granting the Motion and for such other relief to which the Trustee and this bankruptcy estate may be entitled.

Dated: February 7, 2019

Respectfully submitted,

LOCKE D. BARKLEY, TRUSTEE

/s/ Melanie T. Vardaman  
ATTORNEYS FOR TRUSTEE  
W. Jeffrey Collier (MSB 10645)  
Melanie T. Vardaman (MSB 100392)  
6360 I-55 North, Suite 140  
Jackson, Miss. 39211  
(601) 355-6661  
ssmith@barkley13.com

**CERTIFICATE OF SERVICE**

I, the undersigned attorney for the Trustee, do hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and I hereby certify that I either mailed by United States Postal Service, first class, postage prepaid, or electronically notified through the CM/ECF system, a copy of the above and foregoing to the Debtor, attorney for the Debtor, the United States Trustee, and other parties in interest, if any, as identified below.

Dated: February 7, 2019

/s/ Melanie T. Vardaman  
MELANIE T. VARDAMAN